

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,
et al.,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

Re: ECF No. 18269

**STATUS REPORT OF THE PUERTO RICO FISCAL AGENCY AND FINANCIAL
ADVISORY AUTHORITY REGARDING THE GOVERNMENT OF PUERTO RICO'S
RECENT ACTIVITIES AND RESPONSE TO THE ONGOING COVID-19 PANDEMIC**

To the Honorable United States District Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF"), through its undersigned counsel, submits this status report on behalf of the Government of the Commonwealth of Puerto Rico (the "Government") in response to the Court's *Order Regarding Procedures for the October 6-7, 2021, Omnibus Hearing* [ECF No. 18269] and states as follows:

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566(LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), and (iv) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801).

PRELIMINARY STATEMENT²

The Government continues focusing its efforts on safeguarding public health and services, while simultaneously addressing the economic distress caused by the COVID-19 pandemic, and stimulating economic activity, among other areas. As stated in the August Report, the Government took measures to curb the spread of the virus and the Delta variant, along with the Department of Health (“DOH”) and has continued to encourage the vaccination of all eligible individuals. As a result of, among other factors, such measures, since the August Report, Puerto Rico has seen a diminution of COVID-19 cases. As of yesterday, daily cases averaged 75 and the positivity rate was approximately 3.15%, less than half of the 7.17% stated in the August Report³, and the lowest recorded rate since early July 2021. At this juncture, Puerto Rico continues among the top jurisdictions in the world⁴ in vaccinations among its population; in fact, as of last week, over 4.5 million COVID-19 vaccines have been administered and over 78% of all eligible residents in Puerto Rico have been fully vaccinated, positioning Puerto Rico as the U.S. jurisdiction with the second highest amount of administrated vaccine doses⁵.

Due to these and other factors, signs of significant improvement in Puerto Rico’s economy have been palpable in the past months. Since January 2021, hotel occupancy has seen a meaningful increase; the Puerto Rico Tourism Company has reported the highest numbers registered in room

² Defined terms not otherwise defined herein shall have the same meaning given to them in *Status Report of the Puerto Rico Fiscal Agency and Financial Advisory Authority Regarding the Government of Puerto Rico’s Recent Activities and Response to the Ongoing Covid-19 Pandemic* (the “August Report”) [ECF No. 17658].

³ See, <https://covid19datos.salud.gov.pr/>.

⁴ See, [Covid-19 vaccine tracker \(ft.com\)](https://covid19vaccine.ft.com/).

⁵ See, [Fortaleza Press Release, September 23, 2021](#); see also, [Fortaleza Press Release, September 20, 2021](#); see also, [Covid-19 vaccine tracker \(ft.com\)](https://covid19vaccine.ft.com/).

taxes during the first eight (8) months of 2021, with collections of \$11.1 Million (up from \$7 Million for the same period in 2017).⁶

The Government also continues to disburse federal and local aid to residents, businesses, hospitals, and municipalities. Since the last status report, the Government has continued its measures to aid municipalities, rebuild schools and Government buildings, and provide funding for hospitals, restaurants and other industries, among other areas, while simultaneously implementing additional measures aimed to incentivize vaccination and achieve herd immunity. These endeavors have allowed the continued and gradual reopening of Puerto Rico's economy while helping to curb the spread of COVID-19. These and other key data are summarized in the reports available at the [COVID-19 Resource Center | AAFAF \(pr.gov\)](#) and the AAFAF Weekly Reporting Dashboard, dated October 1, 2021, and included as **Exhibit A**.

I. Executive and Administrative Orders to Address the Ongoing Crisis and the Recent Reduction in Positive Cases

1. As detailed in the August Report, during June and July there was an increase in COVID-19 cases, positivity rates, and hospitalizations in Puerto Rico and the rest of the United States as a result of, among other things, the Delta-variant, which increase—in the United States and Puerto Rico alike—was attributable, for the most part, to unvaccinated individuals. Therefore, the Government continues focusing its efforts on implementing its vaccination plan across the island to continue reducing the spread of the COVID-19 virus and achieve herd immunity, as detailed below.

⁶ See, [Puerto Rico Tourism Company Press Release dated September 27, 2021](#).

2. Accordingly, on August 4, 2021, the Secretary of the DOH issued Administrative Order 2021-515, amending DOH's Regulation 9104 of August 9, 2019, to allow licensed nursing professionals to administer vaccines without the need for a prior medical order.⁷

3. In addition to the measures implemented by the Government detailed in the August Report, on August 5, 2021, Governor Pedro R. Pierluisi-Urrutia (the "Governor") issued Executive Order 2021-062 ("Executive Order 62"), to require that certain contractors and employees of the judicial branch, employees of health facilities and of hotels, hostels and inns, as well as all guests of hotels, hostels, inns and short term rentals be vaccinated with an FDA approved vaccine and to show, as a requirement to accessing their respective work places or hotels, their *COVID-19 Vaccination Record Card* ("Vaccination Card") or other documentation crediting that the vaccination process for each such individual.⁸

4. On August 11, 2021, the Governor issued Executive Order 2021-063 ("Executive Order 63"), geared towards restaurants and entertainment spaces (e.g. theaters, cinemas, convention centers, etc.), requiring all employees of such businesses to be vaccinated.⁹

5. Through Executive Order 63, as a requirement to access restaurant businesses, all visitors over the age of 12 years are required to comply with at least one of the following: (i) to be vaccinated or to present a negative COVID-19 test result of at least seventy-two (72) hours prior to visiting such business; or (ii) for visitors who have received a positive COVID-19 test result within the three (3) months prior to visiting such businesses, to present documentation of their recovery, including a letter from a certified service provider or a government health officer

⁷ See, [OA2021-515 Para enmendar Orden Número 462 de 15 de septiembre de 2020 para establecer política pública en torno a la administración de vacunas por los profesionales de la enfermería y autorizar a estos a la administración de vacunas aún sin orden médica.](#)

⁸ See, [OE-2021-062.](#)

⁹ See, [OE-2021-063.](#)

certifying that such individual has recovered and is ready to appear in public places. Id. Alternatively, if any restaurant business does not meet the above-described visitor requirements, such business is required to limit its occupancy to a maximum capacity of 50% of its ordinary capacity. Id.

6. In light of the fact that positive COVID-19 cases continued to rise, on August 19, 2021, the Governor issued Executive Order 2021-064 (“Executive Order 64”), geared towards gymnasiums, beauty salons, barber shops, spas, child day care centers, casinos, supermarkets and stores in gas stations, among others, requiring all employees of such businesses to be vaccinated.¹⁰ Similarly, as a condition to accessing such businesses, all visitors are required to comply with the access requirements for visitors under Executive Order 63, or, alternatively, to have the same 50% maximum occupancy limit set forth in Executive Order 63. Id.

7. Finally, on August 30, 2021, the Governor issued Executive Order 2021-065 (“Executive Order 65”) limiting the business hours, including the closing from 12:00am to 5:00am— with limited exceptions— of all private operations that serve the public.¹¹ Within the businesses to which the exceptions for limited operating hours applied are commercial services that do not serve public individuals, manufacturing and industrial services, construction services, gas stations, supermarkets and grocery stores, religious services, press services, funeral services and health services, among others. Id. Further, through Executive Order 65, from 12:00am to 5:00am, the sale of alcoholic beverages in public places and the celebration of activities that involve the conglomeration of individuals were prohibited. Id. Executive Order 65 also prohibited, during its effectiveness, all elective surgeries that require the use of ulterior intensive care units. Id. As an

¹⁰ See, [OE-2021-064](#).

¹¹ See, [OE-2021-065](#); see also, [Fortaleza Press Release dated September 20, 2021](#) and [Fortaleza Press Release dated August 30, 2021](#).

additional measure, through Executive Order 65, the Government continued exhorting the public to practice physical distancing and reinstated the obligatory use of facemasks in all indoor spaces, and in all outdoor spaces with the presence of fifty (50) or more individuals, further ordering the obligatory, specific use of KN-95 and N-95 facemasks to hospital personnel. *Id.* On September 20, 2021, the Governor announced the extension of Executive Order 65 until October 14, 2021 to continue combating the COVID-19 pandemic¹².

8. To implement Executive Order 56, on September 15, 2021, the Secretary of the DOH issued Administrative Order 2021-518-B, through which it established various measures to continue reducing the spread of COVID-19, (i) directing operators, administrators or owners of businesses to require proof of vaccination to the visitors of their premises, such as a Vaccination Card or a digitally authorized certification, such as the VacuID—a digital vaccine certification easily accessible with mobile phones—and (ii) further clarifying the mandates of Executive Order 56, and prohibiting the participation of minors of less than 12 years—due to the fact that the administration of vaccines to such minors is yet to be authorized—to participate in any event that foments the conglomeration of individuals, regardless of whether such individuals have a qualified viral test¹³.

9. The Government also continues to work closely with experts from various sectors to monitor the spread of the virus to adopt or modify any necessary restriction that may be required on a timely basis.

II. Status of COVID-19 Vaccination Process, Infections and Hospital Capacity

10. The DOH continues to focus its efforts on implementing its vaccination plan across the island to control the spread of the COVID-19 virus and achieve herd immunity.

¹² See, [Fortaleza Press Release dated September 20, 2021](#).

¹³ See, [OA 518-B A los fines de aclarar las Normas Aplicables al Cernimiento Contra el COVID-19 en Actividades Multitudinarias](#).

11. As of October 4, 2021, the DOH has administered 4,742,259 doses of the COVID-19 vaccines and estimates that 79% (over 2.2 Million) of all eligible residents in Puerto Rico have been fully vaccinated and over 87.5% (over 2.4 Million) have received one dose¹⁴.

12. As stated in the August Report, the Government has also enacted several programs to reach and encourage eligible individuals to get vaccinated, among which the Government and the DOH continue holding multiple vaccination events throughout Puerto Rico, having launched—and continued the operation of—the program “VacunaTe Paga”, providing prizes for individuals who get vaccinated.¹⁵ These and other efforts continue to achieve results and Puerto Rico continues to be among the top fifteen jurisdictions in the world in vaccinations among its population¹⁶.

13. As detailed in previous reports, the DOH maintains a “dashboard” to provide daily updates on COVID-19 related statistics¹⁷. As of October 4, 2021:

- Puerto Rico has 149,981 confirmed cases, 31,816 probable cases, and 3,172 reported deaths.
- At the moment, a total of 1,437 ventilators (adult and pediatric) are in stock and available to be used in Puerto Rico. 390 are in use, of which 28 are due to COVID-19. 171 of those in stock are pediatric ventilators and are currently available. 41 of the pediatric ventilators are in use, none of them due to COVID-19.
- 115 adult patients are hospitalized due to COVID-19, of whom 43 are in intensive care. 13 pediatric patients are hospitalized, none of whom are in intensive care.
- 4,464 adult beds and 640 pediatric beds are currently in use out of a total 7,620 and 1,358 hospital beds, respectively. Out of the total detailed above, 383 of ICU beds and 40 pediatric ICU beds are currently in use out of a total 626 and 94, respectively.

¹⁴ <https://covid19datos.salud.gov.pr>.

¹⁵ [VacunarTE Paga Centros | Vacunacion \(protegetevacunate.com\)](#).

¹⁶ [Covid-19 vaccine tracker \(ft.com\)](#).

¹⁷ <https://covid19datos.salud.gov.pr>.

III. Update on Funding Related to COVID-19 and Disaster Relief Funds

A. Federal Funding under the American Rescue Plan Act

14. As detailed in the August Report, the Government continues implementing measures to distribute the federal assistance available under the American Rescue Plan (“ARPA”) pursuant to its strategic plan. Puerto Rico’s municipalities may request and have available over \$1.5 Billion distributed in two equal payments in 2021 and 2022 respectively in funding to aid in the economic recovery and other areas relating to the COVID-19 pandemic¹⁸, for which, generally, municipalities must request and receive the funds from the U.S. Department of the Treasury.

15. As further detailed in the August Report, on July 6, 2021, the Government and AAFAF announced that the process for municipalities categorized as Non Entitlement Units (“NEUs”) may request funding through AAFAF under the Coronavirus Local Fiscal Recovery Fund (“CLFRF”) under ARPA. As such, 51 NEUs Municipalities received the first payment of the Over \$124 Million assigned by Treasury to NEUs¹⁹. Moreover, on August 3, 2021, AAFAF announced the commencement of the fourth phase of the Coronavirus Relief Fund Municipal Transfer Program (“CRFMP”), through which the Governor authorized an additional \$22 Million to Municipalities to continue mitigating the impact of the COVID-19 pandemic²⁰.

16. Further, on August 17, 2021, the Governor announced the distribution of \$120 Million from the ARPA assignment to be distributed for five (5) projects aimed towards promoting Puerto Rico as a tourism destination²¹.

¹⁸ [PR-AAFAF-Ann-Start-Eco-Stimulus-Req-Proc-Muni.pdf](#)

¹⁹ <https://www.aafaf.pr.gov/wp-content/uploads/PR-Municipalities-Receive-ARPA-Economic-Recovery-Fund.pdf>.

²⁰ <https://www.aafaf.pr.gov/wp-content/uploads/CP-Gob-destina-22M-adicionales-municipios.pdf>.

²¹ <https://www.aafaf.pr.gov/wp-content/uploads/Gob-anuncia-dist-millonaria-fondos-ARPA-enfo-promo-PR.pdf>.

17. In addition to the above, and the funding detailed in the August Report, the Government has also made available, under its strategic plan, \$30 Million to incentivize construction work, \$50 Million to restaurants and bars, \$50 Million to the agriculture sector, \$150 Million have been destined to *return to work* economic development programs²², \$20 Million to distribution chains and hotel sectors²³ and \$50 Million for cultural rescue²⁴.

B. Federal Funding Under the Coronavirus Relief Fund

18. As of October 1, 2021, the Government has disbursed \$1,988,059,518 of the \$2,240,625,864 it has received under the CARES Act Coronavirus Relief Fund. AAFAF has published a report detailing the use of these funds and the disbursements made as of October 1, 2021, which is available at [COVID-19 Resource Center | AAFAF \(pr.gov\)](#). See also **Exhibit A**.

C. Update on Disbursements Under the Emergency Measure Support Package

19. With regard to the COVID-19 Emergency Measure Support Package detailed in the previous reports, as of October 1, 2021, the Government has disbursed \$521.4 million out of the \$787.7 million approved in the package. AAFAF has published a report detailing the use of these funds and the disbursements made as of October 1, 2021, which is available at [COVID-19 Resource Center | AAFAF \(pr.gov\)](#). See also **Exhibit A**.

D. Update on Disaster Relief Funds²⁵

20. The Government continues to coordinate relief and funding efforts to address the natural disasters that have affected Puerto Rico in recent years, including the continued recovery

²² See also, [COR3 2021 Recovery Plan Performance Report, dated August 31, 2021](#).

²³ <https://www.aafaf.pr.gov/wp-content/uploads/cp-Gob-anuncia-dist-millonaria-fondos-ARPA.pdf>

²⁴ <https://www.aafaf.pr.gov/wp-content/uploads/Gob-anuncia-Resc-Cultural-50M-fondos-ARPA.pdf>

²⁵ The data and information provided herein has been obtained by AAFAF directly from COR3.

following Hurricanes Irma and María and the earthquakes that impacted (and continue to impact) the southern and southwestern part of Puerto Rico.

21. Further, the Government continues to disburse federal aid, and among the various disbursements made and developments since the last status report are the following:

- Over 2,000 out of 8,460 of projects for the reconstruction of Puerto Rico after the passing of Hurricane María have either been completed or are under construction with funding by Federal Emergency Management Agency (“FEMA”) of over \$25,000 million;
- FEMA has eased the requirements for making disbursements to Puerto Rico for reconstruction projects to accelerate their finalization and the bureaucratic processes for reimbursements and advances to municipalities for reconstruction projects have been substantially reduced;
- Over \$73 million made available for the development of infrastructure projects in the Roosevelt Roads base in Ceiba, assigning \$53.8 million for an electronic microgrid of renewable energy, \$12.6 million for a sanitary water treatment plant and \$7.2 million for a drinking water plan, all of which are expected to be
- \$1 million made available for the construction of a hospital in Vieques, and a design of such hospital was presented²⁶.

22. As of September 27, 2021, the United States Congress has appropriated \$69,843,828,714 for Puerto Rico’s recovery efforts. Of this amount, approximately \$49,728,337,208 has been committed by federal agencies for distribution, and \$21,266,277,744 has been disbursed. Of the amounts obligated and disbursed, FEMA has approved

²⁶ See, [COR3 Press Release dated August 20, 2021](#).

\$35,945,493,575 and disbursed \$14,549,950,569— approximately 40%— of the total amounts detailed above. The Government’s use of these funds is detailed on the COR3 website and can be accessed at: <https://recovery.pr/en>. See also **Exhibit A**.

Dated: October 5, 2021
San Juan, Puerto Rico

Respectfully submitted,

O'MELVENY & MYERS LLP

/s/ Peter Friedman

John J. Rapisardi
Maria J. DiConza
7 Times Square
New York, NY 10036
Telephone: (212) 326-2000
Facsimile: (212) 326-2061
Email: jrapisardi@omm.com
mdiconza@omm.com

-and-

Peter Friedman
1625 Eye Street, NW
Washington, DC 20006
Telephone: (202) 383-5300
Facsimile: (202) 383-5414
Email: pfriedman@omm.com

*Attorneys for the Puerto Rico Fiscal
Agency and Financial Advisory
Authority*

MARINI PIETRANTONI MUÑIZ LLC

/s/ Luis C. Marini-Biaggi

Luis C. Marini-Biaggi
USDC No. 222301
Carolina Velaz-Rivero
USDC No. 300913
250 Ponce de León Ave., Suite 900
San Juan, Puerto Rico 00918
Tel: (787) 705-2171
Fax: (787) 936-7494
lmarini@mpmlawpr.com
cvelaz@mpmlawpr.com

*Attorneys for the Puerto Rico Fiscal Agency
and Financial Advisory Authority*